THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT APPEAL NO.1484 of 2005

30th August 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 21.02.2005 in W.P.NO.25369 OF 2004 on the file of the High Court.)

Between:

B.Swamy, Conductor, E-86680, S/o.Venkateswara Rao, 50 years, R/o.Gantyada, Visakhapatnam District.

...APPELLANT/PETITIONER

AND

1. The Presiding Officer, The Industrial Tribunal-cum-Labour Court, Visakhapatnam and one other.

...RESPONDENTS/RESPONDENTS

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT APPEAL NO.1484 of 2005

JUDGMENT: (Per the Hon'ble Mr Justice B.Prakash Rao)

Heard both the sides. At their request, the Writ Appeal itself is taken up for disposal.

The appellant/petitioner, who has been working in the second respondent-Corporation, filed this appeal as against the dismissal of the Writ Petition No.25369 of 2004 on 21.02.2005, which was filed challenging the award dated 19.04.2004 passed by the first respondent, confirming the order of punishment imposed on him as valid.

The brief facts, which are necessary for disposal of this appeal, are that in a surprise check, the appellant/petitioner found to have committed irregularity in respect of 16 passengers, on which an enquiry was initiated, wherein, the appellant admitted the same. However, he explained that it is only due to overload of the bus by the passengers and such mistake was not occurred previously. After exhausting all the remedies available under the regulations and even the Labour Court also not satisfied with the explanation given by the appellant, confirmed the punishment, the appellant preferred the present appeal.

Having heard the learned counsel on either side and on perusal of the material available on record, it is seen that the appellant is a senior employee and the incident appears to be an accidental one in his entire service. Nothing was brought

on record by the respondents to show that at any time the appellant was involved in such irregularity. Having regard to the same and especially in view of the 16 passengers overloaded the bus, we feel that the order of termination is quite unjustified and gave excess gravity to the offence.

The Writ Appeal is accordingly partly allowed to the extent that the award dated 19.04.2004 is set aside and in its place, we direct the second respondent to give fresh appointment to the appellant.

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(B.PRAKASH RAO, J)

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(DR G.YETHIRAJULU, J)

30th August 2005

RRB

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